THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24909 OF 2006

DATED: -12-2006

Between :

L. Srinivas .. Petitioner

And

1. The Punjab National Bank, rep. by its Authorised Officer, Lakdikapul, Hyderabad And another. .. Respondents

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WRIT PETITION NO.24909 OF 2006

ORDER :

This writ petition is filed seeking a declaration that the action of the respondents in issuing the sale proclamation dated 21-11-2006 under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 as arbitrary and illegal.

The petitioner claims to be the owner of the premises bearing No.1-6-249/4, Friends Colony Zamistanpur, Musheerabad, Hyderabad. It is stated that he obtained housing loan apart from the personal loan from the 1st respondent Bank repayable in 180 installments. Though the monthly installments were made regularly till October, 2004, thereafter he could not pay the installments since he was badly injured in an accident and was under treatment. While so, the 1st respondent Bank initiated the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short, 'the Act') for recovery of the amounts due. Having received the notice dated 5-6-2006 issued under Section 13 (2) of the Act, the petitioner approached the officials of the respondent Bank and sought time for payment of the amounts due. In spite of the same, the possession notice under Section 13 (4) of the Act was issued. Thereafter, on 23-9-2006 the property was seized and kept under lock and key of the respondent Bank. Subsequently, the impugned sale proclamation was issued on 21-11-2006 proposing to sell the property on 29-12-2006 by public

auction. Aggrieved by the said action of the respondents, this writ petition is filed.

I have heard the learned Counsel for both the parties.

Absolutely no case is made out by the petitioner to show that the action of the respondents in proceeding against the secured assets under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 is not in accordance with the procedure prescribed. The fact that the petitioner availed loan and committed default is also not in dispute.

In the counter-affidavit filed on behalf of the respondents, it is stated that the loan account of the petitioner was classified as Non-Performing Asset (NPA) and thereafter following the procedure prescribed under the Act possession of the secured asset was taken through the Advocate-Commissioner appointed under Section 14 of the Act.

In view of the undisputed fact that the petitioner has committed default in repayment of the loan availed by him and that the loan account was declared as NPA and in the absence of any allegation that the action of the respondents in issuing the sale proclamation is contrary to any of the provisions of the Act, the impugned action cannot be found fault with and consequently Writ of Mandamus as prayed for cannot be granted.

Accordingly, the Writ Petition is dismissed. No costs.

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G. ROHINI, J.

Dt. -12-2006
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